

JUL - 2 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR D. TAGGART,
Supervising Deputy Attorney General
LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5337
Facsimile: (916) 327-8643

Attorneys for Complainant

**BEFORE THE DIRECTOR OF
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Amended Accusation
Against:

Case No. VN-2006-1694

**DENISE BERTOGLIO,
a.k.a., BRONWYN D. BERTOGLIO,
a.k.a. BRONWYN DENISE BERTOGLIO**
7920 Teton Way
Antelope, CA 95843

**A M E N D E D
A C C U S A T I O N**

Vocational Nurse License No. VN 88911

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
Amended Accusation solely in her official capacity as the Executive Officer of the Bureau of
Vocational Nursing and Psychiatric Technicians ("Bureau"),¹ Department of Consumer Affairs
("Department").

///

1. On July 1, 2008, the legislation for the Board of Vocational Nursing and Psychiatric
Technicians sunsetted. Business and Professions Code section 101.1(b) applies. As used
hereinbelow "Board" and "Bureau" are used interchangeably.

2. On or about March 30, 1979, the Bureau issued Vocational Nurse License No. VN 88911 to Denise Bertoglio, also known as Bronwyn D. Bertoglio, also known as Bronwyn Denise Bertoglio ("Respondent"). The Vocational Nurse License will expire on February 28, 2009.

JURISDICTION

3. Section 101.1(b) of the Code states:

(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.

4. Section 477 of the Code states:

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

5. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

6. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

7. Code section 2892.1 provides, in pertinent part:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application or renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

STATUTORY PROVISIONS

8. Section 2878 of the Code states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct. . .
...

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

9. Section 2878.5 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

10. Code section 4060 provides, in pertinent part,

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to

Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

12. DRUG

“Methamphetamine” is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2).

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

13. Respondent’s vocational nurse license is subject to discipline under Code section 2878, subdivision (f), in that Respondent has been convicted of a crime that is substantially related to the qualifications, functions, and duties of a Licensed Vocational Nurse. On December 8, 2005, in the Superior Court, Sacramento County, in the case entitled *People of the State of California v. Bronwyn Denise Bertoglio* (Super. Ct., Sacramento Cty., 2005, Case No. 05M00577), Respondent was convicted by the Court on her plea of *nolo contendere* of violating Vehicle Code section 23152, subsection (a) [driving a vehicle while under the influence of drugs, that is methamphetamine], a misdemeanor. The violation occurred on August 27, 2004.

SECOND CAUSE FOR DISCIPLINE

(Use of Drugs - Danger to Others)

14. Respondent’s Vocational Nurse License is subject to discipline under Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (b), in that, while licensed as a Vocational Nurse, on or about

///

1 August 27, 2004, Respondent used drugs in a manner dangerous or injurious to herself and
2 others, as more fully set forth in paragraph 13, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Convictions of Criminal Offense Involving Drugs)

5 15. Respondent's Vocational Nurse License is subject to disciplinary action
6 under Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined
7 in Code section 2878.5, subdivision (c), in that Respondent was convicted of a crime involving
8 drugs, as more fully set forth in paragraph 10, above.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Possess Controlled Substance in Violation of Law and Self-Administer)

11 16. Respondent's vocational nurse license is subject to disciplinary action
12 under Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined
13 in Code section 2878.5, subdivision (a), as follows:

14 a. On or about August 27, 2004, Respondent possessed Methamphetamine, a
15 controlled substance, in violation of Code section 4060.

16 b. On or about August 27, 2004, Respondent self-administered Metham-
17 phetamine, a controlled substance.

18 **OTHER MATTERS**

19 17 On March 5, 1998, in the Municipal Court, Sacramento County, in the
20 case entitled *People of the State of California v. Bronwyn Denise Bertoglio* (Muni. Ct.,
21 Sacramento Cty., 1998, Case No. 98MO2654), Respondent was convicted by the Court on her
22 plea of *nolo contendere* of violating Penal Code section 415 [unlawful fighting in a public place].

23 **PRAYER**

24 **WHEREFORE**, Complainant requests that a hearing be held on the matters
25 herein alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric
26 Technicians issue a decision:

27 ///

28 ///

1 1. Revoking or suspending Vocational Nurse License Number VN 88911,
2 issued to Denise Bertoglio, also known as Bronwyn D. Bertoglio, also known as Bronwyn Denise
3 Bertoglio;

4 2. Ordering Denise Bertoglio, also known as Bronwyn D. Bertoglio, also
5 known as Bronwyn Denise Bertoglio, to pay the Bureau of Vocational Nursing and Psychiatric
6 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
7 Code section 125.3; and,

8 3. Taking such other and further action as deemed necessary and proper.
9

10 DATED: July 2, 2008

11
12 

13 TERESA BELLO-JONES, J.D., M.S.N., R.N.
14 Executive Officer
15 Bureau of Vocational Nursing and Psychiatric Technicians
16 Department of Consumer Affairs
17 State of California
18 Complainant
19
20
21
22
23
24
25
26
27
28